

By



S.B. No. 208

A BILL TO BE ENTITLED

AN ACT

relating to restrictions on the issuance of permits to certain persons by the Texas Department of Health, the Texas Air Control Board, and the Texas Water Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.0884 to read as follows:

Sec. 361.0884. PROHIBITION ON ISSUANCE OF PERMIT TO FACILITY IN VIOLATION. (a) The commission or department may not issue a permit for the initial facility at a new plant site to an owner or operator who, in knowing disregard of the requirements of this chapter, constructs or operates the facility without a permit required by this chapter. This prohibition on permit issuance applies for three years after the date on which the owner or operator receives notice of the violation under Subsection (b) and becomes effective on the issuance of an order by the commission or department or a court relative to that violation. However, this prohibition does not apply if the owner or operator ceased operations immediately on receipt of the notice of violation.

(b) If the commission or department or a local government with enforcement authority under Section 361.225 has information that indicates that a facility described in Subsection (a) has been or is being constructed or operated without a permit required by this chapter, the commission, department, or local government shall

2-14-91
2-25-91

1 provide written notice of the violation to the owner or operator of
2 the facility. The notice must describe the violation and inform
3 the owner or operator of the penalties that may be assessed under
4 this chapter, including the prohibition on issuance of a permit. A
5 local government that provides the notice shall send a copy of the
6 notice to the commission or department.

7 (c) The commission or department shall adopt rules to
8 implement this section.

9 (d) This section does not apply to the real property,
10 facilities, or equipment of a public utility or of a mining company
11 providing fuel to a public utility. *Insert F.A.#221*

12 (e) In this section, "plant site" includes all
13 geographically contiguous property, which may be divided by public
14 or private rights-of-way, as well as noncontiguous properties owned
15 by the same person but connected by a right-of-way that the person
16 controls and to which the public does not have access.

17 SECTION 2. Subchapter C, Chapter 382, Health and Safety
18 Code, is amended by adding Section 382.064 to read as follows:

19 Sec. 382.064. PROHIBITION ON ISSUANCE OF PERMIT TO FACILITY
20 IN VIOLATION. (a) The board may not issue a construction or
21 operating permit for the initial facility at a new plant site to an
22 owner or operator who, in knowing disregard of the requirements of
23 this chapter, constructs or operates the facility without a permit
24 required by this chapter. This prohibition on permit issuance^{2/3}
25 applies for three years after the date on which the owner or
26 operator receives notice of the violation under Subsection (b) and
27 becomes effective on the issuance of an order by the board or a

1 court relative to that violation. However, this prohibition does
2 not apply if the owner or operator ceased operations immediately on
3 receipt of the notice of violation.

4 (b) If the board or a local government with enforcement
5 authority under Section 382.114 has information that indicates that
6 a facility described in Subsection (a) has been or is being
7 constructed or operated without a permit required by this chapter,
8 the board or local government shall provide written notice of the
9 violation to the owner or operator of the facility. The notice
10 must describe the violation and inform the owner or operator of the
11 penalties that may be assessed under this chapter, including the
12 prohibition on issuance of a permit. A local government that
13 provides the notice shall send a copy of the notice to the board.

14 (c) The board shall adopt rules to implement this section.

15 (d) This section does not apply to the real property,
16 facilities, or equipment of a public utility or of a mining company
17 providing fuel to a public utility. *Insert F.A.#①②*

18 (e) In this section:

19 (1) "Permit" means a permit, special permit, or
20 exemption issued by the board under this chapter.

21 (2) "Plant site" includes all geographically^{3/4}
22 contiguous property, which may be divided by public or private
23 rights-of-way, as well as noncontiguous properties owned by the
24 same person but connected by a right-of-way that the person
25 controls and to which the public does not have access.

26 SECTION 3. Subchapter B, Chapter 26, Water Code, is amended
27 by adding Section 26.0284 to read as follows:

1 Sec. 26.0284. PROHIBITION ON ISSUANCE OF PERMIT TO FACILITY
2 IN VIOLATION. (a) The commission may not issue a permit for the
3 initial facility at a new plant site to an owner or operator who,
4 in knowing disregard of the requirements of this chapter,
5 discharges waste from the facility without a permit required by
6 this chapter. This prohibition on permit issuance applies for
7 three years after the date on which the owner or operator receives
8 notice of the violation under Subsection (b) of this section and
9 becomes effective on the issuance of an order by the commission or
10 a court relative to that violation. However, this prohibition does
11 not apply if the owner or operator ceased operations immediately on
12 receipt of the notice of violation.

13 (b) If the commission or a local government with enforcement
14 authority under Section 26.124 of this code has information that
15 indicates that a facility described in Subsection (a) of this
16 section has been or is discharging waste without a permit required
17 by this chapter, the commission or local government shall provide
18 written notice of the violation to the owner or operator of the
19 facility. The notice must describe the violation and inform the
20 owner or operator of the penalties that may be assessed under this
21 chapter, including the prohibition on issuance of a permit. A
22 local government that provides the notice shall send a copy of the
23 notice to the commission.

24 (c) The prohibition under Subsection (a) of this section
25 does not apply if, within five days after the receipt of notice of
26 violation, the owner or operator applies for a finding from the
27 commission that the activity is a necessary activity^{4/5} and that its

1 continuation would be more protective of the environment than its
2 cessation, and within 10 days of receipt of that application, the
3 commission makes such a finding. This does not, however, limit the
4 liability of the owner or operator under this code for each day the
5 owner or operator continues to operate without a permit.
6 Additionally, on becoming aware of such a situation, the executive
7 director shall take measures to put a permit application for the
8 violating facility preferentially ahead of the processing of other
9 applications.

10 (d) The commission shall adopt rules to implement this
11 section.

12 (e) This section does not apply to the real property,
13 facilities, or equipment of a public utility or of a mining company
14 providing fuel to a public utility. *Insert F.A.# ①③*

15 (f) In this section:

16 (1) "Facility" means a sewer system, treatment^{5/6}
17 facility, or disposal facility.

18 (2) "Plant site" includes all geographically
19 contiguous property, which may be divided by public or private
20 rights-of-way, as well as noncontiguous properties owned by the
21 same person but connected by a right-of-way that the person
22 controls and to which the public does not have access.

23 SECTION 4. Subchapter B, Chapter 27, Water Code, is amended
24 by adding Section 27.0181 to read as follows:

25 Sec. 27.0181. PROHIBITION ON ISSUANCE OF PERMIT TO FACILITY
26 IN VIOLATION. (a) The commission may not issue a permit for the
27 initial injection well at a new plant site to an owner or operator

1 who, in knowing disregard of the requirements of this chapter,
2 constructs or operates an injection well without a permit required
3 by this chapter. This prohibition on permit issuance applies for
4 three years after the date on which the owner or operator receives
5 notice of the violation under Subsection (b) of this section and
6 becomes effective on the issuance of an order by the commission or
7 a court relative to that violation. However, this prohibition does
8 not apply if the owner or operator ceased operations immediately on
9 receipt of the notice of violation.

10 (b) If the commission or a local government with enforcement
11 authority under this chapter has information that indicates that an
12 injection well described in Subsection (a) of this section has been
13 or is being constructed or operated without a permit required by
14 this chapter, the commission or local government shall provide^{6/7}
15 written notice of the violation to the owner or operator of the
16 facility. The notice must describe the violation and inform the
17 owner or operator of the penalties that may be assessed under this
18 chapter, including the prohibition on issuance of a permit. A
19 local government that provides the notice shall send a copy of the
20 notice to the commission.

21 (c) The commission shall adopt rules to implement this
22 section.

23 (d) This section does not apply to the real property,
24 facilities, or equipment of a public utility or of a mining company
25 providing fuel to a public utility. *Insert F.A. # ① ④*

26 (e) In this section, "plant site" includes all
27 geographically contiguous property, which may be divided by public

1 or private rights-of-way, as well as noncontiguous properties owned
2 by the same person but connected by a right-of-way that the person
3 controls and to which the public does not have access.

4 SECTION 5. This Act takes effect September 1, 1991, and
5 applies to an owner or operator who is provided with written notice
6 on or after that date by the Texas Department of Health, the Texas
7 Air Control Board, the Texas Water Commission, or a local
8 government with enforcement authority that the person:

9 (1) has operated or constructed or is operating or
10 constructing a facility or an injection well without a permit in
11 violation of Chapter 361 or Chapter 382, Health and Safety Code, or ¹⁷/₆
12 Chapter 27, Water Code; or

13 (2) has discharged waste or is discharging waste from
14 a sewer system, treatment facility, or disposal facility without a
15 permit required under Chapter 26, Water Code.

16 SECTION 6. The importance of this legislation and the
17 crowded condition of the calendars in both houses create an
18 emergency and an imperative public necessity that the
19 constitutional rule requiring bills to be read on three several
20 days in each house be suspended, and this rule is hereby suspended.

By: Green S.B. No. 208
(In the Senate - Filed January 24, 1991; January 29, 1991,
read first time and referred to Committee on Natural Resources;
February 14, 1991, reported favorably by the following vote: Yeas
7, Nays 0; February 14, 1991, sent to printer.)

COMMITTEE VOTE

	Yea	Nay	PNV	Absent
Sims	x			
Truan	x			
Armbrister	x			
Barrientos	x			
Brown				
Carriker	x			
Lucio	x			
Ratliff				
Rosson				
Zaffirini	x			

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Code, is amended by adding Section 361.0884 to read as follows:

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IN VIOLATION. (a) The commission or department may not issue a
permit for the initial facility at a new plant site to an owner or
operator who, in knowing disregard of the requirements of this
chapter, constructs or operates the facility without a permit
required by this chapter. This prohibition on permit issuance
applies for three years after the date on which the owner or
operator receives notice of the violation under Subsection (b) and
becomes effective on the issuance of an order by the commission or
department or a court relative to that violation. However, this
prohibition does not apply if the owner or operator ceased
operations immediately on receipt of the notice of violation.

(b) If the commission or department or a local government
with enforcement authority under Section 361.225 has information
that indicates that a facility described in Subsection (a) has been
or is being constructed or operated without a permit required by
this chapter, the commission, department, or local government shall
provide written notice of the violation to the owner or operator of
the facility. The notice must describe the violation and inform
the owner or operator of the penalties that may be assessed under
this chapter, including the prohibition on issuance of a permit. A
local government that provides the notice shall send a copy of the
notice to the commission or department.

(c) The commission or department shall adopt rules to
implement this section.

(d) This section does not apply to the real property,
facilities, or equipment of a public utility or of a mining company
providing fuel to a public utility.

(e) In this section, "plant site" includes all
geographically contiguous property, which may be divided by public
or private rights-of-way, as well as noncontiguous properties owned
by the same person but connected by a right-of-way that the person
controls and to which the public does not have access.

SECTION 2. Subchapter C, Chapter 382, Health and Safety
Code, is amended by adding Section 382.064 to read as follows:

Sec. 382.064. PROHIBITION ON ISSUANCE OF PERMIT TO FACILITY
IN VIOLATION. (a) The board may not issue a construction or
operating permit for the initial facility at a new plant site to an
owner or operator who, in knowing disregard of the requirements of
this chapter, constructs or operates the facility without a permit
required by this chapter. This prohibition on permit issuance

1 applies for three years after the date on which the owner or
 2 operator receives notice of the violation under Subsection (b) and
 3 becomes effective on the issuance of an order by the board or a
 4 court relative to that violation. However, this prohibition does
 5 not apply if the owner or operator ceased operations immediately on
 6 receipt of the notice of violation.

7 (b) If the board or a local government with enforcement
 8 authority under Section 382.114 has information that indicates that
 9 a facility described in Subsection (a) has been or is being
 10 constructed or operated without a permit required by this chapter,
 11 the board or local government shall provide written notice of the
 12 violation to the owner or operator of the facility. The notice
 13 must describe the violation and inform the owner or operator of the
 14 penalties that may be assessed under this chapter, including the
 15 prohibition on issuance of a permit. A local government that
 16 provides the notice shall send a copy of the notice to the board.

17 (c) The board shall adopt rules to implement this section.

18 (d) This section does not apply to the real property,
 19 facilities, or equipment of a public utility or of a mining company
 20 providing fuel to a public utility.

21 (e) In this section:

22 (1) "Permit" means a permit, special permit, or
 23 exemption issued by the board under this chapter.

24 (2) "Plant site" includes all geographically
 25 contiguous property, which may be divided by public or private
 26 rights-of-way, as well as noncontiguous properties owned by the
 27 same person but connected by a right-of-way that the person
 28 controls and to which the public does not have access.

29 SECTION 3. Subchapter B, Chapter 26, Water Code, is amended
 30 by adding Section 26.0284 to read as follows:

31 Sec. 26.0284. PROHIBITION ON ISSUANCE OF PERMIT TO FACILITY
 32 IN VIOLATION. (a) The commission may not issue a permit for the
 33 initial facility at a new plant site to an owner or operator who,
 34 in knowing disregard of the requirements of this chapter,
 35 discharges waste from the facility without a permit required by
 36 this chapter. This prohibition on permit issuance applies for
 37 three years after the date on which the owner or operator receives
 38 notice of the violation under Subsection (b) of this section and
 39 becomes effective on the issuance of an order by the commission or
 40 a court relative to that violation. However, this prohibition does
 41 not apply if the owner or operator ceased operations immediately on
 42 receipt of the notice of violation.

43 (b) If the commission or a local government with enforcement
 44 authority under Section 26.124 of this code has information that
 45 indicates that a facility described in Subsection (a) of this
 46 section has been or is discharging waste without a permit required
 47 by this chapter, the commission or local government shall provide
 48 written notice of the violation to the owner or operator of the
 49 facility. The notice must describe the violation and inform the
 50 owner or operator of the penalties that may be assessed under this
 51 chapter, including the prohibition on issuance of a permit. A
 52 local government that provides the notice shall send a copy of the
 53 notice to the commission.

54 (c) The prohibition under Subsection (a) of this section
 55 does not apply if, within five days after the receipt of notice of
 56 violation, the owner or operator applies for a finding from the
 57 commission that the activity is a necessary activity and that its
 58 continuation would be more protective of the environment than its
 59 cessation and, within 10 days of receipt of that application, the
 60 commission makes such a finding. This does not, however, limit the
 61 liability of the owner or operator under this code for each day the
 62 owner or operator continues to operate without a permit.
 63 Additionally, on becoming aware of such a situation, the executive
 64 director shall take measures to put a permit application for the
 65 violating facility preferentially ahead of the processing of other
 66 applications.

67 (d) The commission shall adopt rules to implement this
 68 section.

69 (e) This section does not apply to the real property,
 70 facilities, or equipment of a public utility or of a mining company

1 providing fuel to a public utility.

2 (f) In this section:

3 (1) "Facility" means a sewer system, treatment
4 facility, or disposal facility.

5 (2) "Plant site" includes all geographically
6 contiguous property, which may be divided by public or private
7 rights-of-way, as well as noncontiguous properties owned by the
8 same person but connected by a right-of-way that the person
9 controls and to which the public does not have access.

10 SECTION 4. Subchapter B, Chapter 27, Water Code, is amended
11 by adding Section 27.0181 to read as follows:

12 Sec. 27.0181. PROHIBITION ON ISSUANCE OF PERMIT TO FACILITY
13 IN VIOLATION. (a) The commission may not issue a permit for the
14 initial injection well at a new plant site to an owner or operator
15 who, in knowing disregard of the requirements of this chapter,
16 constructs or operates an injection well without a permit required
17 by this chapter. This prohibition on permit issuance applies for
18 three years after the date on which the owner or operator receives
19 notice of the violation under Subsection (b) of this section and
20 becomes effective on the issuance of an order by the commission or
21 a court relative to that violation. However, this prohibition does
22 not apply if the owner or operator ceased operations immediately on
23 receipt of the notice of violation.

24 (b) If the commission or a local government with enforcement
25 authority under this chapter has information that indicates that an
26 injection well described in Subsection (a) of this section has been
27 or is being constructed or operated without a permit required by
28 this chapter, the commission or local government shall provide
29 written notice of the violation to the owner or operator of the
30 facility. The notice must describe the violation and inform the
31 owner or operator of the penalties that may be assessed under this
32 chapter, including the prohibition on issuance of a permit. A
33 local government that provides the notice shall send a copy of the
34 notice to the commission.

35 (c) The commission shall adopt rules to implement this
36 section.

37 (d) This section does not apply to the real property,
38 facilities, or equipment of a public utility or of a mining company
39 providing fuel to a public utility.

40 (e) In this section, "plant site" includes all
41 geographically contiguous property, which may be divided by public
42 or private rights-of-way, as well as noncontiguous properties owned
43 by the same person but connected by a right-of-way that the person
44 controls and to which the public does not have access.

45 SECTION 5. This Act takes effect September 1, 1991, and
46 applies to an owner or operator who is provided with written notice
47 on or after that date by the Texas Department of Health, the Texas
48 Air Control Board, the Texas Water Commission, or a local
49 government with enforcement authority that the person:

50 (1) has operated or constructed or is operating or
51 constructing a facility or an injection well without a permit in
52 violation of Chapter 361 or Chapter 382, Health and Safety Code, or
53 Chapter 27, Water Code; or

54 (2) has discharged waste or is discharging waste from
55 a sewer system, treatment facility, or disposal facility without a
56 permit required under Chapter 26, Water Code.

57 SECTION 6. The importance of this legislation and the
58 crowded condition of the calendars in both houses create an
59 emergency and an imperative public necessity that the
60 constitutional rule requiring bills to be read on three several
61 days in each house be suspended, and this rule is hereby suspended.

* * * * *

Austin, Texas
February 14, 1991

Hon. Bob Bullock
President of the Senate

Sir:

We, your Committee on Natural Resources to which was referred S.B. No. 208, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

Sims, Chairman

**FAVORABLE
SENATE COMMITTEE REPORT ON**

(SB) SCR SJR SR HB HCR HJR 208

By Green
(Author/Senate Sponsor)

2-14-91
(date of submission to Senate)

Lt. Governor Bob Bullock
President of the Senate

Sir:

We, your Committee on Natural Resources, to which was referred the attached measure,
have on 2-13-91, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

☒ do pass and be printed

☐ do pass and be ordered not printed

☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☐ yes ☐ no

An actuarial analysis was requested. ☐ yes ☐ no

Considered by subcommittee. ☐ yes ☐ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
<u>Sims, Chairman</u>	<u>X</u>			
<u>Truan, Vice Chair</u>	<u>X</u>			
<u>Armbrister</u>	<u>X</u>			
<u>Barrientos</u>	<u>X</u>			
<u>Brown</u>				
<u>Carriker</u>	<u>X</u>			
<u>Lucio</u>	<u>X</u>			
<u>Ratliff</u>				
<u>Rosson</u>				
<u>Zaffirini</u>	<u>X</u>			
TOTAL VOTES	<u>7</u>			

COMMITTEE ACTION

- ☒ S260 Considered in public hearing
☒ S270 Testimony taken
S275 Left as pending business
S250 Consideration postponed
S280 Failed to receive majority affirmative vote

- S245 Tagged
S266 Laid on table subject to call in Committee
S267 Laid on table in Committee
S265 No action taken
S235 Meeting cancelled
S225 Referred to special subcommittee:

Subcommittee Members: _____

Lisa Mayes
COMMITTEE CLERK

Bill Sims
CHAIRMAN

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE

February 13, 1991

TO: Honorable Bill Sims, Chairman
Committee on Natural Resources
Senate Chamber
Austin, Texas

IN RE: Senate Bill No. 208
By: Green

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 208 (relating to restrictions on the issuance of permits to certain persons by the Texas Department of Health, the Texas Air Control Board, and the Texas Water Commission) this office has determined the following:

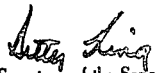
No significant fiscal implication to the State or units of local government is anticipated.

Source: Department of Health, Texas Air Control Board, Texas Water Commission;
LBB Staff: JO, JWH, DF, CD, PA

AMEND THE CAPTION TO CONFORM
TO THE BODY OF THE BILL

ADOPTED

FEB 25 1991


Secretary of the Senate

AMENDMENT NO. 2

BY Hogson

1 Amend S.B. No. 208 as follows:

2 (1) In Subsection (d), Section 361.0884 (Committee Printing
3 page ²1, line ¹¹53), between "public utility" and the period, insert
4 "and does not apply to a confined animal feeding operation
5 regulated by the commission".

6 (2) In Subsection (d), Section 382.064 (Committee Printing
7 page ³2, line ¹⁷20), between "public utility" and the period, insert
8 "and does not apply to a confined animal feeding operation".

9 (3) In Subsection (e), Section 26.0284 (Committee Printing
10 page ⁵3, line ¹⁴1), between "public utility" and the period, insert "
11 and does not apply to a confined animal feeding operation".

12 (4) In Subsection (d), Section 271.0181 (Committee Printing
13 page ⁶3, line ²⁵39), between "public utility" and the period, insert
14 "and does not apply to a confined animal feeding operation".

ADOPTED

FEB 25 1991

Letty Ling
Secretary of the Senate

House Am. # 1
2-25-91

Feb. 25 1991 Engrossed
Letsy Spaw
Engrossing Clerk

By: Green

S.B. No. 208

A BILL TO BE ENTITLED

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(b) If the commission or department or a local government with enforcement authority under Section 361.225 has information that indicates that a facility described in Subsection (a) has been or is being constructed or operated without a permit required by this chapter, the commission, department, or local government shall

provide written notice of the violation to the owner or operator of the facility. The notice must describe the violation and inform the owner or operator of the penalties that may be assessed under this chapter, including the prohibition on issuance of a permit. A local government that provides the notice shall send a copy of the notice to the commission or department.

(c) The commission or department shall adopt rules to implement this section.

(d) This section does not apply to the real property, facilities, or equipment of a public utility or of a mining company providing fuel to a public utility and does not apply to a confined animal feeding operation regulated by the commission.

(e) In this section, "plant site" includes all geographically contiguous property, which may be divided by public or private rights-of-way, as well as noncontiguous properties owned by the same person but connected by a right-of-way that the person controls and to which the public does not have access.

SECTION 2. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Section 382.064 to read as follows:

Sec. 382.064. PROHIBITION ON ISSUANCE OF PERMIT TO FACILITY IN VIOLATION. (a) The board may not issue a construction or operating permit for the initial facility at a new plant site to an owner or operator who, in knowing disregard of the requirements of this chapter, constructs or operates the facility without a permit required by this chapter. This prohibition on permit issuance

applies for three years after the date on which the owner or operator receives notice of the violation under Subsection (b) and becomes effective on the issuance of an order by the board or a court relative to that violation. However, this prohibition does not apply if the owner or operator ceased operations immediately on receipt of the notice of violation.

(b) If the board or a local government with enforcement authority under Section 382.114 has information that indicates that a facility described in Subsection (a) has been or is being constructed or operated without a permit required by this chapter, the board or local government shall provide written notice of the violation to the owner or operator of the facility. The notice must describe the violation and inform the owner or operator of the penalties that may be assessed under this chapter, including the prohibition on issuance of a permit. A local government that provides the notice shall send a copy of the notice to the board.

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(2) "Plant site" includes all geographically

1 contiguous property, which may be divided by public or private
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4 controls and to which the public does not have access.

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6 by adding Section 26.0284 to read as follows:

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8 IN VIOLATION. (a) The commission may not issue a permit for the
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20 authority under Section 26.124 of this code has information that
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24 written notice of the violation to the owner or operator of the
25 facility. The notice must describe the violation and inform the

owner or operator of the penalties that may be assessed under this chapter, including the prohibition on issuance of a permit. A local government that provides the notice shall send a copy of the notice to the commission.

(c) The prohibition under Subsection (a) of this section does not apply if, within five days after the receipt of notice of violation, the owner or operator applies for a finding from the commission that the activity is a necessary activity and that its continuation would be more protective of the environment than its cessation and, within 10 days of receipt of that application, the commission makes such a finding. This does not, however, limit the liability of the owner or operator under this code for each day the owner or operator continues to operate without a permit. Additionally, on becoming aware of such a situation, the executive director shall take measures to put a permit application for the violating facility preferentially ahead of the processing of other applications.

(d) The commission shall adopt rules to implement this section.

(e) This section does not apply to the real property, facilities, or equipment of a public utility or of a mining company providing fuel to a public utility and does not apply to a confined animal feeding operation.

(f) In this section:

(1) "Facility" means a sewer system, treatment

1 facility, or disposal facility.

2 (2) "Plant site" includes all geographically
3 contiguous property, which may be divided by public or private
4 rights-of-way, as well as noncontiguous properties owned by the
5 same person but connected by a right-of-way that the person
6 controls and to which the public does not have access.

7 SECTION 4. Subchapter B, Chapter 27, Water Code, is amended
8 by adding Section 27.0181 to read as follows:

9 Sec. 27.0181. PROHIBITION ON ISSUANCE OF PERMIT TO FACILITY
10 IN VIOLATION. (a) The commission may not issue a permit for the
11 initial injection well at a new plant site to an owner or operator
12 who, in knowing disregard of the requirements of this chapter,
13 constructs or operates an injection well without a permit required
14 by this chapter. This prohibition on permit issuance applies for
15 three years after the date on which the owner or operator receives
16 notice of the violation under Subsection (b) of this section and
17 becomes effective on the issuance of an order by the commission or
18 a court relative to that violation. However, this prohibition does
19 not apply if the owner or operator ceased operations immediately on
20 receipt of the notice of violation.

21 (b) If the commission or a local government with enforcement
22 authority under this chapter has information that indicates that an
23 injection well described in Subsection (a) of this section has been
24 or is being constructed or operated without a permit required by
25 this chapter, the commission or local government shall provide

written notice of the violation to the owner or operator of the facility. The notice must describe the violation and inform the owner or operator of the penalties that may be assessed under this chapter, including the prohibition on issuance of a permit. A local government that provides the notice shall send a copy of the notice to the commission.

(c) The commission shall adopt rules to implement this section.

(d) This section does not apply to the real property, facilities, or equipment of a public utility or of a mining company providing fuel to a public utility and does not apply to a confined animal feeding operation.

(e) In this section, "plant site" includes all geographically contiguous property, which may be divided by public or private rights-of-way, as well as noncontiguous properties owned by the same person but connected by a right-of-way that the person controls and to which the public does not have access.

SECTION 5. This Act takes effect September 1, 1991, and applies to an owner or operator who is provided with written notice on or after that date by the Texas Department of Health, the Texas Air Control Board, the Texas Water Commission, or a local government with enforcement authority that the person:

(1) has operated or constructed or is operating or constructing a facility or an injection well without a permit in violation of Chapter 361 or Chapter 382, Health and Safety Code, or

1 Chapter 27, Water Code; or

2 (2) has discharged waste or is discharging waste from
3 a sewer system, treatment facility, or disposal facility without a
4 permit required under Chapter 26, Water Code.

5 SECTION 6. The importance of this legislation and the
6 crowded condition of the calendars in both houses create an
7 emergency and an imperative public necessity that the
8 constitutional rule requiring bills to be read on three several
9 days in each house be suspended, and this rule is hereby suspended.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE

February 13, 1991

TO: Honorable Bill Sims, Chairman
Committee on Natural Resources
Senate Chamber
Austin, Texas

IN RE: Senate Bill No. 208
By: Green

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 208 (relating to restrictions on the issuance of permits to certain persons by the Texas Department of Health, the Texas Air Control Board, and the Texas Water Commission) this office has determined the following:

No significant fiscal implication to the State or units of local government is anticipated.

Source: Department of Health, Texas Air Control Board, Texas Water Commission;
LBB Staff: JO, JWH, DF, CD, PA

A BILL TO BE ENTITLED

AN ACT:

relating to restrictions on the issuance of permits to certain persons by the Texas Department of Health, the Texas Air Control Board, and the Texas Water Commission.

1-24-91

Filed with the Secretary of the Senate

JAN 29 1991Read and referred to Committee on NATURAL RESOURCESFEB 14 1991

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

FEB 25 1991

Senate and Constitutional Rules to permit consideration suspended by:

{ unanimous consent
30 yeas, 0 naysFEB 25 1991Read second time, amended, and ordered engrossed by:{ unanimous consent
a viva voce vote
____ yeas, ____ naysFEB 25 1991

Caption ordered amended to conform to the body of the bill.

FEB 25 1991Senate and Constitutional 3 Day Rule suspended by a vote of 30 yeas, 0 nays.FEB 25 1991

Read third time, _____, and passed by:

{ A viva voce vote
____ yeas, ____ naysBetty King

SECRETARY OF THE SENATE

OTHER ACTION:

FEB. 25, 1991

Engrossed

Feb. 26, 1991

Sent to House

Engrossing Clerk

R. [unclear]FEB 26 1991

Received from the Senate

MAR 4 1991

Read first time and referred to Committee on

Environmental Affairs

Reported favorably amended, sent to Printer at _____

Printed and Distributed _____

Sent to Committee on Calendars _____

Read Second time (amended): passed to third reading (failed)

by (Non-Record Vote) Record Vote of _____ yeas, _____ nays _____ present not voting.

Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays _____ present not voting.

Read third time (amended): finally passed (failed) by a (Non-Record Vote) Record Vote of

____ yeas, ____ nays _____ present not voting.

Caption ordered amended to conform to body of bill.

Returned to Senate.

CHIEF CLERK OF THE HOUSE

Returned from House without amendment.

Returned from House with _____ amendments.

Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by: _____

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays

NR